

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Sprint Communications Company LP)	
)	WC Docket No. 08-116
Section 63.71 Application for the Discontinuance)	Comp. Pol. File No. 871
Of 900 Transport Service)	
_____)	

OPPOSITION TO SPRINT APPLICATION FOR DISCONTINUANCE

Jartel, Inc. ("Jartel"), through its undersigned counsel and in accordance with the Public Notice issued in the above-referenced proceeding, respectfully submits its opposition to Sprint's Application for Discontinuance.¹ There are not *any* substitutes to Sprint's 900 transport service, and allowing Sprint to discontinue that service would adversely affect each and every one of Sprint's customers and the public interest. Accordingly, the Commission must deny Sprint's Application, and must direct Sprint to continue providing 900 Transport.

If, however, the Commission permits Sprint to discontinue 900 Transport, then it must take precautions to preserve the telephone numbers currently in use and thus to prevent Sprint's customers from being forced out of the marketplace, an inevitable consequence of Sprint's discontinuance. The 900 numbers at issue are not subject to the Commission's number portability requirements. Therefore, as soon as Sprint ceases providing transport, the telephone numbers at issue will be disconnected and Sprint's former customers will be unable to obtain

¹ *Comments Invited on Application of Sprint Communications Company L.P. to Discontinue Domestic Telecommunications Services, Public Notice, DA 08-1564 (rel. June 30, 2008).* On May 30, 2008, Jartel filed a letter opposing Sprint's Application. Jartel incorporates that letter by reference, and further elaborates on its basis for opposing Sprint's application.

service from another provider for those same numbers. This is not a trivial matter of obtaining new 900 numbers. Jartel and many others have spent literally hundreds of thousands of dollars advertising services with specific numbers, and many of these services have used the same 900 number for a decade or more. It would be unwise as a policy matter, a waste of numbering resources, and patently unfair to allow Sprint to destroy its customers' businesses by eliminating their ability to use the numbers to which they have subscribed.

To prevent these unquestionable wrongs from occurring, several reasonable options exist. First, , the Commission could direct Sprint to continue to provide the transport, but allow Jartel to manage the service. Second, the Commission could preserve the numbers by directing Sprint to return all of the prefixes back to the North American Numbering Plan Administration ("NANPA") for redistribution to another telecommunications carrier. In this instance, the Commission also must require Sprint to continue to provide 900 Transport for at least fourteen months, so that there is ample time to transition to the new provider that will be assuming the 900 numbers. Unless the Commission orders Sprint to return the 900 prefixes to NANPA, it is inevitable that all of the service bureaus that currently use Sprint's 900 Transport product will go out of business as soon as discontinuance occurs. Third, and as an absolute last alternative, if the Commission refuses to require Sprint to return the prefixes to NANPA, then the Commission, at a very minimum, must require Sprint to continue to provide 900 Transport for fourteen months, so that the affected customers can have some time to transition and wrap up their businesses. The Commission must not allow Sprint to walk away from its business and put customers out of business simply because Sprint no longer wants to provide a particular service.

I. THE COMMISSION MUST DENY SPRINT'S APPLICATION FOR DISCONTINUANCE

The Commission must deny Sprint's Application to discontinue 900 Transport, because there are not any substitutes to the product at issue. The Commission may not grant a

discontinuance if “it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would be otherwise adversely affected.”² In the present case, there are not any alternatives to Sprint’s 900 Transport service, and all of its customers—and their customers—would be put out of business if the Commission were to grant Sprint’s Application.

Indeed, in evaluating Sprint’s Application, the Commission must find that all of the factors in balancing the interests of the carrier and the affected user community weigh heavily in favor of requiring Sprint to continue to provide the requested service.³ In addressing AT&T’s Application to discontinue a 900 product, the Commission stated that it considered several factors in the discontinuance analysis, including “(1) the financial impact on the common carrier of continuing to provide the service, (2) the need for the service in general, (3) the need for the particular facilities in question, (4) the existence, availability, and adequacy of alternatives, and (5) increased charges for alternative services, although this factor may be outweighed by other considerations.”⁴ Sprint has not provided any evidence of any financial inability to continue to provide the requested service. Moreover, Sprint charges approximately \$0.20 per minute for this transport, far in excess of transport for other products and services, such that there can be no claim that it is not covering its costs for the service.

More significantly, however, there are not any viable alternatives to Sprint’s 900 Transport product. Jartel needs Sprint’s service—not another provider’s—to continue its own operations unimpeded. The same is true for Sprint’s other customers. There are not any

² *Public Notice* at 2.

³ *AT&T Communications’ Application to Discontinue Domestic Telecommunications Services, Memorandum Opinion and Order*, 18 FCC Rcd 24376 (2003).

⁴ *Id.* ¶ 6.

substitutes to Sprint's 900 Transport product for those customers that currently purchase the product. In contrast to other telephone numbers, the Commission has not extended its portability rules to 900 telephone numbers. That means that as soon as Sprint disconnects its 900 Transport service, any and all 900 numbers that Sprint carries will be disconnected; the service bureaus that obtained 900 Transport from Sprint will not be able to port those telephone numbers to another provider. Callers to those telephone numbers will not receive any forwarding information (nor would forwarding information be of any assistance to a 900 customer for reasons discussed below), but instead will receive a message, if at all, that the number no longer is in service. Thus, in the case of 900 numbers, this is not a case of finding another provider to carry 900 traffic or that another provider is too expensive; it is necessary that this particular provider—Sprint—continue to provide service to the 900 telephone numbers used by its customers.

Because Sprint is not required to port the numbers, Sprint's customers will be adversely affected—in fact, out of business—if the Commission grants Sprint's Application. Jartel has been a customer of Sprint's for nearly eighteen years, and has used the same telephone numbers for many of those eighteen years.⁵ As Network Telephone Services, Inc. ("NTS") stated in its comments, in the "pay-per-call industry, the telephone number is the 'brand' consumers remember."⁶ Pay-per-call providers have spent millions of dollars advertising their numbers, and, therefore, simply cannot start fresh with new telephone numbers and a new transport provider.⁷ If a caller cannot reach a 900 number that he or she has been accustomed to dialing, perhaps for years, then the caller will move onto the next 900 number, and the provider of the

⁵ See Declaration of Todd Lesser ¶ 3 (hereinafter "Lesser Decl.")

⁶ Objection of Network Telephone Services, Inc., Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Daniel H. Coleman, Vice President, Legal & Business Affairs, Network Telephone Services, Inc. (May 5, 2008).

⁷ See, e.g., *id.* at 2; see also Lesser Decl. ¶ 3.

first number will be out of business. Unless the Commission steps in to prevent Sprint's discontinuance, it is inevitable that Jartel (and likely Sprint's other customers) will be out of business.

Contrary to Sprint's claims about the limited affect of its discontinuance, Sprint's proposed discontinuance would substantially affect a large portion of the pay-per-call industry, and quite literally kill the business of affected companies. In its Application, Sprint states that it provides 900 Transport to only six customers.⁸ What Sprint fails to acknowledge, however, is that certain of those six customers, in turn, serve many other information providers and other service bureaus.⁹ If Sprint were to discontinue its 900 Transport product, each and every number served through that product would be discontinued, harming far more than Sprint's six customers. Therefore, since there are no alternatives to Sprint's 900 product, the Commission must prohibit Sprint from discontinuing the product.

II. AS AN ALTERNATIVE, THE COMMISSION SHOULD DIRECT SPRINT TO PROVIDE A MANAGED SERVICE

If the Commission does not want to direct Sprint to continue to provide the currently provisioned service, then it should require Sprint to enter into a managed service agreement with Jartel. To date, Jartel has attempted to work with Sprint to provide alternatives to Sprint discontinuing 900 Transport,¹⁰ and, thus, to prevent Sprint's customers from going out of business, but has been unable to make any progress. Under this agreement, Sprint would solely provide the transport, but Jartel would take over the service, such as the billing and collection arrangements. This would enable Sprint effectively to step out of the 900 business, while

⁸ Sprint Application at 2.

⁹ A service bureau essentially serves as an intermediary between the carrier and the information provider.

¹⁰ Lesser Decl. ¶ 4.

enabling its customers to continue to use their current phone numbers and to maintain their service uninterrupted.

III. IF THE COMMISSION GRANTS SPRINT'S APPLICATION, THEN IT MUST PROVIDE PROTECTIONS FOR SPRINT'S CUSTOMERS

If the Commission grants Sprint's Application, however, then it must implement certain protections to minimize the harm that will result from the discontinuance. First, the Commission must require Sprint to return all of the numbers to NANPA so that Sprint's customers can try to obtain those telephone numbers from other carriers. Since 900 numbers are not portable, unless the Commission requires Sprint to turn in those telephone numbers, Sprint will disconnect the numbers and the customers who use those numbers no longer will have access to them. Any other result would constitute a Commission-sanctioned waste of scarce numbering resources.

The threat to Jartel's—and other service bureaus and their customers' operations—is real, immediate, and devastating. When faced with a similar request for discontinuance several years ago,¹¹ the Commission declined to require AT&T to return its numbers to NANPA (though it did extend the time period for such discontinuance). As a result, AT&T immediately discontinued the numbers at issue, and callers to the telephone numbers received a disconnection notice. Certain of the telephone numbers disconnected were running in current advertisements and in the yellow pages.¹² Jartel lost a substantial amount of revenue as a result of the disconnection; customers likely surmised that the companies whose numbers they had been accustomed to dialing had gone out of business.¹³ The Commission must not repeat this scenario, but instead must take any and all measures to prevent Sprint's customers from being irreparably harmed.

¹¹ See *AT&T Communications' Application to Discontinue Domestic Telecommunications Services, Memorandum Opinion and Order*, 18 FCC Rcd at 24376.

¹² Lesser Decl. ¶ 5.

¹³ *Id.*

Second, the Commission must require Sprint to continue to provide the service for at least fourteen (14) months so that Sprint's customers can work with NANPA and other carriers to attempt to continue to use their current numbers. At the end of the fourteen month period, Sprint should coordinate with NANPA so that another carrier can request those *same* numbers. This is the only way to prevent a seamless interruption to Sprint's customers' (and their customers') business.

IV. AT THE VERY MINIMUM, THE COMMISSION MUST REQUIRE SPRINT TO MAINTAIN ITS 900 TRANSPORT PRODUCT FOR FOURTEEN MONTHS

If the Commission declines to require Sprint to turn the 900 numbers at issue into NANPA, then at the very minimum, the Commission must require Sprint to keep providing the 900 product at issue for at least fourteen months. Under the Commission's discontinuance rule, Sprint's proposed discontinuance is scheduled to become effective on July 31, 2008, just one month after the Commission issued its public notice, and only three months after Sprint provided notice to Jartel.¹⁴ This limited period of time is not enough to balance against the substantial repercussions that will result from discontinuance. This is a question of putting companies out of business, and the Commission must provide Sprint's customers—and their customers—with sufficient time to attempt to reinvent themselves.

Sprint has proposed an unreasonably short period of time in which to discontinue its 900 Transport product. The Commission previously has required carriers to continue providing 900 services in other situations: in *AT&T Communications' Application to Discontinue Domestic Telecommunications Services*, the Commission found that AT&T's nine-month advance notice of its proposed discontinuance of its 900 product was insufficient, and ordered AT&T to

¹⁴ See Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Michael B. Hazzard and Jennifer M. Kashatus, Womble Carlyle Sandridge & Rice PLLC (May 30, 2008) (Attachment 1).

continue to provide the product at issue for a specified period of time.¹⁵ Similarly, in the present case, the Commission must find that Sprint has provided an unreasonably short period of time in which to discontinue its product. Sprint provided a mere three months before its proposed discontinuance, approximately six fewer months than customers purchasing AT&T's 900 product received.¹⁶ The Commission found that AT&T's nine-month notice was too short, and similarly must find that the three months here is unworkable.

Jartel requests that the Commission require Sprint to continue providing service for at least fourteen months from the date of the Commission's order. As Jartel explained in its May 30th letter, its customers frequently advertise their 900 numbers for months, if not a full year (such as through the yellow pages) in advance. Jartel does not have any contact with its 900 number customers so it cannot notify them of the new telephone numbers to dial. A service bureau's only hope to salvage even a portion of its business is to have enough time to obtain telephone numbers from a different carrier and for its information provider customers to attempt to advertise those telephone numbers.¹⁷ There is no question that even with this time extension that Sprint's customers—at least two of which based on the comments have been longstanding customers—will be substantially and detrimentally affected by Sprint's discontinuance. The Commission, however, cannot let the discontinuance proceed without at least attempting to take some measure to try to prevent the 900 industry from being killed off.

¹⁵ See *AT&T Communications' Application to Discontinue Domestic Telecommunications Services, Memorandum Opinion and Order*, ¶ 6.

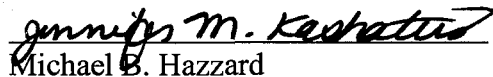
¹⁶ See *id.*

¹⁷ Lesser Decl. ¶ 7.

V. CONCLUSION

For the foregoing reasons, Jartel respectfully requests that the Commission deny Sprint's Application.

Respectfully submitted,



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July 15, 2008

**Before the
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Section 63.71 Application for the Discontinuance)	WC Docket No. 08-116
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DECLARATION OF TODD LESSER

I, Todd Lesser, am over 18 years of age, do hereby declare:

1. I am the President of Jartel, Inc. ("Jartel"). My business address is P.O. Box 370362, San Diego, California 92137.
2. The purpose of this declaration is to support Jartel's opposition to Sprint's Application for the Discontinuance of 900 Transport Service ("Application"). If the Commission does not deny Sprint's Application, then Jartel likely will be forced to exit the marketplace.
3. Jartel is a service bureau that obtains 900 Transport service from Sprint, and has done so for approximately eighteen years. During that time period, Jartel has used the same telephone numbers for many of those years. Jartel has spent millions of dollars advertising certain of the 900 numbers at issue. These telephone numbers essentially are a "brand," and Jartel (and its customers) cannot start fresh with new telephone numbers and a new transport provider.

4. Since receiving the discontinuance notice from Sprint, Jartel has attempted to work out a solution with Sprint that would enable Jartel to continue to use the telephone numbers at issue. To date, Jartel has not made any progress in its negotiations. As one example, Jartel has offered to manage Sprint's service under a managed service agreement.

5. Jartel experienced a substantial loss of revenue as a result of an AT&T discontinuance several years ago. AT&T had petitioned the Commission to permit AT&T to discontinue providing a certain 900 transport product. AT&T provided customers with approximately nine months notice of the discontinuance, and the Commission required AT&T to continue to provide that service for several months after AT&T's proposed date of discontinuance. Even with an eleven-month lead time, however, Jartel still lost a substantial amount of revenue as a result of the disconnection. Customers become used to dialing certain 900 numbers; those customers probably assumed that the pay-per-call provider on the other end of the number had gone out of business, and so they moved onto the next 900 number.

6. If the Commission grants Sprint's Application, then it must require Sprint to turn the numbers into NANPA so that service bureaus can attempt to reclaim those numbers.

7. The Commission also must require Sprint to continue to provide service for at least fourteen months from the date of the Commission's order. If the Commission grants Sprint's Application, the only hope of survival for Jartel is for it to have enough time to obtain telephone numbers from another carrier and to attempt to advertise those telephone numbers. Clearly, this is a worst case scenario, and that Jartel still would be irreparably injured as a result of the discontinuance even with this extension of time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 7/5/08.

Todd Lesser /me
Todd Lesser

CERTIFICATE OF SERVICE

I, Jennifer Kashatus, certify that I served a copy of the foregoing Jartel Opposition to Sprint Application for Discontinuance on July 15, 2008, to the Commission via ECFS and as follows:

Via Email

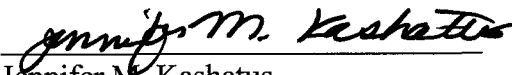
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